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May 18, 2023

BY ECF

Honorable Vera M. Scanlon
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: Payamps v. City of New York, et al.,
22-CV-00563 (AMD) (VMS)

Your Honor:

I am a Senior Counsel in the Office of the Hon. Sylvia O. Hinds-Radix, Corporation Counsel of the City of New York, and the attorney representing defendants the City of New York ("City"), Mayor Bill de Blasio, Commissioner Dermot Shea, NYPD Chief of Department Terence Monahan, Police Officer Daniel Auguste, Police Officer Corey Johnson, and Inspector Jesse Lance (collectively "defendants") in the above-referenced matter. Defendants write to respectfully request a one week an enlargement of time, from May 18, 2023 to May 25, 2023, to respond to Plaintiff's April 18, 2023 Requests for Admissions, which includes 320 separate requests. This is defendants' first request for an extension of this deadline and Plaintiff's counsel, Jessica Massimi, does not consent to this request. Plaintiff's counsel states that her refusal to consent is based on "the impending statute of limitations and [the undersigned's purported] refusal to comply with a prior courts (sic) and promises on this matter to identify the doe defendants."

By way of background, pursuant to the Court's April 11, 2023 Order, defendants were to continue to attempt identify John Does allegedly involved in the incident which forms the basis for plaintiff's lawsuit by May 1, 2023¹. As discussed at the April 11, 2023 conference, the Civilian Complaint Review Board (hereinafter "CCRB") investigation identified six (6) subject officers

¹ By letter dated May 1, 2023, defendants requested an enlargement of time, until May 19, 2023, to comply with the Court's Order.

and an additional seventeen (17) witness officers (23 total officers) who were allegedly present for plaintiff's arrest on June 4, 2023. The undersigned has been engaged in a diligent investigation in an attempt to identify the officers who were present for the incident at issue in this case and has interviewed fifteen of officers identified in the relevant CCRB file. Moreover, Defendants are in the process of preparing a disclosure to Plaintiff, to be provided tomorrow, which specifically identifies a number of officers depicted in the photographs of the purported incident that are part of the relevant CCRB file. To that end, Defendants vehemently object to Plaintiff's counsel's mischaracterization that of the City's efforts to attempt to identify the John Doe defendants.

With respect to the instant request for additional time to respond to Plaintiff's 320 Requests for Admission, which were served on April 18, 2023, not a single one of these Requests for Admission were directed at an individual defendant and they specifically demand information from officers who are not named as defendants. Due to the sheer volume of the requests, the complexity of same, and the undersigned's recent schedule, which included a trial in the matter of George Benn v. Delroy Morrison et al., (18 Civ. 722) which proceeded before Judge Rochan in the Southern District of New York, the undersigned requires an additional week to prepare appropriate responses to those requests. Although Plaintiff's counsel also states that she does not consent to this extension based on the impending statute of limitations, which, upon information and belief, expires on June 4, 2023, defendants are unsure how a one week extension would impact any such deadline. Moreover, the Requests to Admit are directed request information from individuals whose identities Plaintiff's counsel has been in possession of since at least January 23, 2023 as they are all names included in the relevant CCRB file. It is unclear how additional time to respond to these Requests for Admission would at all prejudice Plaintiff, and counsel did not provide any basis other than what was stated above when the undersigned inquired.

In light of the above, and pursuant to Rule 36(a)(3) of Federal Rule of Civil Procedure, Defendants respectfully request a one week enlargement of time, from May 18, 2023 to May 25, 2023, to respond to Plaintiff's 320 Requests for Admissions dated April 18, 2023.

Defendants thank the Court for its consideration of this request.

By: 

Michael Pesin-Virovets
Senior Counsel

cc: **By ECF**

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